IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs February 22, 2007

IN RE R.F., N.F., J.F., & Z.F.

Appeal from the Circuit Court for Bradley County
No. V-05-553 John Hagler, Jr., Judge

No. E2006-01928-COA-R3-PT - FILED MARCH 30, 2007

This is an appeal of the trial court's termination of the parental rights of W.F. and T.F. to their four minor children upon finding by clear and convincing evidence that grounds for termination existed and that termination was in the children's best interest. On appeal, the parents argue that there was insufficient proof of the statutory grounds for termination. Upon our determination that there was clear and convincing evidence both of the parents' substantial noncompliance with the permanency plan entered into in this case and of T.F.'s mental incompetence, we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed

SHARON G. LEE, J., delivered the opinion of the court, in which HERSCHEL P. FRANKS, P.J., and CHARLES D. SUSANO, JR., J., joined.

D. Mitchell Bryant, Cleveland, Tennessee, for the appellant, W.F.

Eric S. Armstrong, Cleveland, Tennessee, for the appellant, T.F.

Robert E. Cooper, Jr., Attorney General & Reporter; Douglas Earl Dimond, Senior Counsel, Nashville, Tennessee, for the appellee, State of Tennessee, Department of Children's Services.

OPINION

I. Background

The appellants, W.F. ("Father") and T.F. ("Mother"), are the parents of four male children, R.F. (DOB: September 28, 2000); twins, N.F. and J.F. (DOB: July 28, 2001); and Z.F. (DOB: October 27, 2002). In October of 2001, the Department of Children's Services ("DCS") removed R.F., N.F., and J.F. from the home because the home environment presented risks to the children's health and safety and because the latter two children had been diagnosed with non-organic failure

to thrive[1]. Thereafter, upon findings that the conditions of the home were "abominable" and that the parents had "neglected their home and medically neglected their children," the juvenile court ruled the three children to be dependent and neglected and placed them in custody of DCS. DCS's investigation of the family environment further resulted in the parents being charged with three counts of felony child abuse and neglect and culminated in each of the parents pleading guilty to three counts of misdemeanor child abuse and neglect. For these offenses, on October 27, 2002, they were sentenced to eleven months and twenty-nine days and granted probation.

The parents' fourth child, Z.F., was born on October 27, 2002. When Z.F. was born, the other three children remained in foster care; however, in June of 2003, R.F. was returned to the parents, and in May of 2004, N.F. and J.F. were returned. It appears that shortly after the family was reunited, DCS received another referral on the home, and subsequent investigation again revealed an unsanitary and unsafe home environment. The DCS investigator testified that all the children were dirty, scratched and bruised, one was naked, one's diaper was filled with feces, there was an accumulation of trash in the home, and there was urine on the floor. She also observed loose and exposed wiring accessible to the children. As a consequence of the investigation, the children were removed from the home. At the time, DCS still retained custody of the twins who had been with the parents on a trial basis, and upon petition, DCS was also granted custody of R.F. and Z.F. Thereafter, on May 31, 2005, each parent pled guilty to four counts of felony child neglect for which they received a one-year suspended sentence.

Over the next year, DCS sought to work with the parents on various issues related to improving the conditions in the home and care of the children, and during that time, the juvenile court approved two permanency plans. Ultimately, however, DCS determined that termination of parental rights was warranted and filed a termination petition in the Circuit Court on July 15, 2005. Following a trial on May 31 and July 12, 2006, the trial court entered its order terminating parental rights of both parents, finding by clear and convincing evidence that grounds for termination existed and that termination was in the best interest of the children. The trial court's order included the following findings and conclusions:

> a. That [DCS] has used every asset at its disposal to try to bring the parents to the level that they could exercise their constitutional right to nurture and care for their children, but the parents are not able, regardless of the amount of assistance, to care for and nurture the children they brought into the world;
>
> b. The juvenile court made much effort, as reflected in its orders, to place the children back with the parents, but no progress was really ever made to eliminate the potential danger to the children;

[1] Trial testimony indicates that failure to thrive is designated "non-organic" when it is the result of environmental factors rather than innate physiological factors.

c. The parents could not comply with minimal requirements set out in the permanency plans, which the juvenile court approved, finding them to be reasonable and in the best interests of the minor children.

d. Following the removal of the children, the parents had criminal convictions for child neglect and abuse.

e. Proof was presented that there was drug abuse by the father since removal.

f. There was also proof that both parents, especially the mother, has very serious psychological and emotional problems and deficiencies, which can not be remediated through state resources, and which would cause the children to remain in danger.

g. The children have been removed for a period of time far exceeding six (6) months. The conditions which led to the removal and which in all reasonable probability would cause the children to be subjected to further abuse or neglect i[f] they were returned to the parents still exist and there is little likelihood that these conditions would ever be remedied, but they certainly cannot be remedied at an early date that would allow the children to be safely returned to the parents. Continuation of these problems greatly diminishes the child's chances of early integration into any kind of safe, stable and permanent home.

Based on these findings, the Court finds petitioner has proven every ground alleged, specifically; grounds for termination pursuant to T.C.A. § 36-1-113(g)(1), as defined by T.C.A. § 36-1-102(1)(A)(ii) has been proven; that grounds for termination pursuant to T.C.A. § 36-1-113(g)(2) has been proven, that ground for termination pursuant to §36-1-113(g)(3) has been proven, as has ground for termination pursuant to T.C.A. § 36-1-113(g)(8)(B).

(Internal citations to the record omitted).

The parents filed separate notices of appeal to this order.

II. Issues

We address the following issues in this case:

1) Whether the evidence sufficiently supported the conclusion that there was a statutory ground for terminating parental rights.

2) Whether the evidence sufficiently supported the conclusion that DCS made reasonable efforts to facilitate the children's return to the home.

III. Standard of Review

A biological parent's right to the care and custody of his or her child is among the oldest of the judicially recognized liberty interests protected by the due process clauses of the federal and state constitutions. *Troxel v. Granville,* 530 U.S. 57, 65 (2000); *Hawk v. Hawk,* 855 S.W.2d 573, 578-79 (Tenn. 1993); *Ray v. Ray,* 83 S.W.3d 726, 731 (Tenn. Ct. App. 2001). Although this right is fundamental and superior to claims of other persons and the government, it is not absolute. *State v. C.H.K.,* 154 S.W.3d 586, 589 (Tenn. Ct. App. 2004). This right continues without interruption only as long as a parent has not relinquished it, abandoned it, or engaged in conduct requiring its limitation or termination. *Blair v. Badenhope,* 77 S.W.3d 137, 141 (Tenn. 2002).

Terminating parental rights has the legal effect of reducing the parent to the role of a complete stranger, "severing forever all legal rights and obligations of the parent." T.C.A. § 36-1-113(l)(1). The United States Supreme Court has recognized the unique nature of proceedings to terminate parental rights, stating that "[f]ew consequences of judicial action are so grave as the severance of natural family ties." *M.L.B. v. S.L.J.*, 519 U.S. 102, 119 (1996) (quoting *Santosky v. Kramer*, 455 U.S. 745, 787 (1982) (Rehnquist, J., dissenting)). As a result, "[t]he interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the Fourteenth Amendment." *Id.* The constitutional protections of the parent-child relationship require certain safeguards before the relationship can be severed. *O'Daniel v. Messier*, 905 S.W.2d 182, 186 (Tenn. Ct. App. 1995). This most drastic interference with a parent's rights requires "the opportunity for an individualized determination that a parent is either unfit or will cause substantial harm to his or her child before the fundamental right to the care and custody of the child can be taken away." *In re Swanson*, 2 S.W.3d 180, 188 (Tenn. 1999).

Termination proceedings are governed by statute in Tennessee. Parties who have standing to seek the termination of a biological parent's parental rights must first prove at least one of the statutory grounds for termination. T.C.A. § 36-1-113(c)(1). Secondly, they must prove that termination of the parent's rights is in the child's best interest. T.C.A. § 36-1-113(c)(2). Because the decision to terminate parental rights has profound consequences, courts must apply a higher standard of proof in deciding termination cases. Therefore, to justify termination of parental rights, the party seeking termination must prove by clear and convincing evidence the ground (or grounds) for termination and that termination is in the child's best interest. T.C.A. § 36-1-113(c); *In re Valentine,* 79 S.W.3d 539, 546 (Tenn. 2002). While T.C.A. § 36-1-113(g) lists multiple grounds upon which parental rights may be terminated, "the existence of any one of the statutory bases will support a termination of parental rights." *In re M.L.D.*, 182 S.W.3d 890, 894 (Tenn. Ct. App. 2005); *In re C.T.S.*, 156 S.W.3d 18 (Tenn. Ct. App. 2004); *In re C.W.W.*, 37 S.W.3d 467, 473 (Tenn. Ct. App.

2000).

The heightened burden of proof in parental termination cases minimizes the risk of erroneous decisions. *In re C.W.W.,* 37 S.W.3d 467, 474 (Tenn. Ct. App. 2000); *In re M.W.A., Jr.,* 980 S.W.2d 620, 622 (Tenn. Ct. App. 1998). Evidence satisfying the clear and convincing evidence standard establishes that the truth of the facts asserted is highly probable, *State v. Demarr,* No. M2002-02603-COA-R3-JV, 2003 WL 21946726, at *9 (Tenn. Ct. App. M.S., Aug. 13, 2003), *no appl. perm. filed,* and eliminates any serious or substantial doubt about the correctness of the conclusions drawn from the evidence. *In re Valentine,* 79 S.W.3d 539, 546 (Tenn. 2002); *In re S.M.,* 149 S.W.3d 632, 639 (Tenn. Ct. App. 2004); *In re J.J.C.,* 148 S.W.3d 919, 925 (Tenn. Ct. App. 2004). It produces in a fact-finder's mind a firm belief or conviction regarding the truth of the facts sought to be established. *In re A.D.A.,* 84 S.W.3d 592, 596 (Tenn. Ct. App. 2002); *Ray v. Ray,* 83 S.W.3d 726, 733 (Tenn. Ct. App. 2001); *In re C.W.W.,* 37 S.W.3d at 474.

In a non-jury case such as this one, we review the record *de novo* with a presumption of correctness as to the trial court's determination of facts, and we must honor those findings unless the evidence preponderates to the contrary. Tenn. R. App. P. 13(d); *Union Carbide v. Huddleston,* 854 S.W.2d 87, 91 (Tenn. 1993). When a trial court has seen and heard witnesses, especially where issues of credibility and weight of oral testimony are involved, considerable deference must be accorded to either as to the trial court's factual findings. *Seals v. England/Corsair Upholstery Mfg. Co., Inc.,* 984 S.W.2d 912, 915 (Tenn. 1999). The trial court's specific findings of fact are first reviewed and are presumed to be correct unless the evidence preponderates against them. We then determine whether the facts, as found by the trial court or as supported by the preponderance of the evidence, clearly and convincingly establish the grounds for terminating the biological parent's parental rights. *In re S.M.,* 149 S.W.3d 632, 640 (Tenn. Ct. App. 2004). The trial court's conclusions of law are reviewed *de novo* and are accorded no presumption of correctness. *Campbell v. Florida Steel Corp.,* 919 S.W.2d 26, 35 (Tenn. 1996); *Presley v. Bennett,* 860 S.W.2d 857, 859 (Tenn. 1993).

IV. Grounds for Termination

The first issue we address is whether there was clear and convincing evidence before the trial court to support its finding of a statutory ground for terminating parental rights. In addressing this issue, we reiterate that we need not review each of the grounds relied upon by the trial court in reaching its decision. As we have noted above, the existence of even one statutory ground is sufficient for parental rights to be terminated. Our review of the record in this case convinces us that clear and convincing evidence supported at least two statutory grounds for termination of parental rights.

A. Noncompliance With Permanency Plan

First, we find that termination of parental rights was appropriate under T.C.A. § 36-1-113(g)(2) which provides for termination when "there has been substantial noncompliance by the

parent or guardian with the statement of responsibilities in a permanency plan.... " Addressing termination of parental rights on this ground in *In re M.J.B.*, 140 S.W.3d 643 (Tenn. Ct. App. 2004), we observed that the plan requirements must be reasonable and related to resolving the problems that resulted in removal and that the parent's noncompliance must be substantial:

> Terminating parental rights based on Tenn. Code Ann. § 36-1-113(g)(2) requires more proof than that a parent has not complied with every jot and tittle of the permanency plan. To succeed under Tenn. Code. Ann. § 36-1-113(g)(2), the Department must demonstrate first that the requirements of the permanency plan are reasonable and related to remedying the conditions that caused the child to be removed from the parent's custody in the first place, *In re Valentine*, 79 S.W.3d at 547; *In re L.J.C.*, 124 S.W.3d 609, 621 (Tenn. Ct. App. 2003), and second that the parent's noncompliance is substantial in light of the degree of noncompliance and the importance of the particular requirement that has not been met. *In re Valentine*, 79 S.W.3d at 548-49, *In re Z.J.S.*, 2003 WL 21266854, at *12. Trivial, minor, or technical deviations from a permanency plan's requirements will not be deemed to amount to substantial noncompliance. *In re Valentine,* 79 S.W.3d at 548; *Department of Children's Servs. v. C.L.*, No. M2001-02729-COA-R3-JV, 2003 WL 22037399, at *18 (Tenn. Ct. App., Aug. 29, 2003) (No Tenn. R. App. P. 11 application filed).

In re M.J.B. 140 S.W.3d at 656.

As we have stated, two permanency plans were approved by the juvenile court in this case after the second removal of the children from the home in July of 2004. The first of these plans was signed by the parents in August of 2004. The stated goal of this initial plan was reunification, and it set forth the following requirements:

> Parents will locate and secure a safe and structurally sound house.
>
> Parents will notify [case manager] of prospective home so [case manager] can assist in inspecting the home.
>
> Parents need to maintain a clean home.
>
> Parents need to insure that the home is free of safety hazards.
>
> * * *

> [Father] will get a full time (40 hrs. per week) job and keep the job for a minimum of 6 months.
>
> [Mother] will get a part time job (minimum 20 hrs. per week) and keep the job for a minimum of 6 months.
>
> [Father] and [Mother] will provide DCS with proof (pay stubs), of earnings every other Friday.
>
> [Mother] will continue in counseling with therapist at Pinnacle Psychiatric.
>
> [Mother] will continue to take meds as prescribed by all her doctors.
>
> [Mother] will get a psychological assessment provided it can be funded by outside sources.
>
> [Father] and [Mother] will get a parenting assessment and follow all recommendations.

The second of the two plans is dated February 24, 2005. It is a revision of the first plan and while it retained all of the foregoing requirements, it stated alternative goals of reunification and adoption and contained the following additional requirements with respect to Father:

> [Father] will undergo an A & D Assessment at Bradford Health Services by March 10, 2005 and follow all recommendations made in the assessment.
>
> [Father] will submit to random drug screens. Any refusal constitutes a positive screen.

Revision of the plan to include these two additional requirements was prompted by Father's having tested positive for methamphetamine use on December 12, 2004; January 5, 2005; and February 15, 2005.

We find that the purpose of each of the plan requirements was to the create a safe and nurturing environment for the children, and accordingly, we conclude that the requirements were reasonable and related to eliminating the problems that led to the children's removal from the home. The parents present no argument to the contrary.

We further find that there is clear and convincing evidence in the record to support the conclusion that the parents substantially failed to comply with requirements set forth in the permanency plans.

First, the parents failed to meet plan requirements regarding housing and employment. The record shows that the home where the family resided at the time of removal in July of 2004 was thereafter condemned and the parents were thereby rendered homeless. While Mother found employment in October of 2004, at which time she and Father rented an apartment, Mother was terminated from this job in May of 2005, after which she and Father were evicted from the apartment for non-payment of rent. After that time, it appears that Mother and Father began living in a camper trailer without running water on property belonging to Father's grandmother, and they continued to live there at the time of trial. Since losing her job in May of 2005, Mother apparently had part-time employment for four months cleaning hotel rooms for which she was paid fifty to one hundred dollars a week; however, at the time of trial, Mother was unemployed. Although at trial, Father maintained that he had been working full time for one and one-half months, Wallace Fowler, the DCS case manager who worked with the family, testified that Father has in the past been untruthful about his employment, that at no other time during the pendency of this case has Father secured full-time employment, and that Father's part-time employment has been sporadic and of brief duration:

> In August of '05[2][?], [Father] told me he had a job at a finance company cleaning up repos full-time. When I verified that, it was not full-time. It was short-lived. It was on call; it wasn't regular employment.
>
> Then in October he told me he was working at Larry's Car Wash, six days a week, ten hours a day, for seven dollars an hour. When I attempted to verify that, he was going to get a maximum of 20 hours a week and six dollars an hour. And that was on October the 6th, and on October the 8th [Father] was fired from Larry's Car Wash, so that was a couple of days there after I checked that out.
>
> First of November he told me he worked at Bishop's Bakery and they had - - they said that he was not an employee.
>
> Again, in November of '04, he told me he was working for Evans Janitorial Service and they had not heard of [Father].
>
> At the end of November of '04, he told me he worked for Duracell, which was not accurate. He worked for an organization called IH Services, which is a floor service that is subcontracted by Duracell to do their floors. That was one shift and he was terminated after one shift, according to the personnel person there, because he had

[2] Although Mr. Fowler testified that this date was August of '05, we assume that this was an error and that Mr. Fowler intended the date of August of '04 instead, given the chronological sequence otherwise indicated by his testimony.

> represented himself as an experienced floor man and they said it was clear that he was not that and so that lasted a day.
>
> In January of '05, [Father] told me he worked for Randy Morris on a farm. But during this whole period of time I never received any verification, documentation of [Father's] employment for anything.

Mr. Fowler also testified that Father never submitted any paycheck stubs as proof of income as he was required to do under the permanency plans.

In addition to failing to meet plan requirements regarding housing and employment, Mother failed to meet the requirement that she comply with recommendations arising out of her parenting assessment. An initial parenting assessment of Mother was performed on October 26, 2004, by psychological examiner Martha Jean Biller, who testified that results of the tests performed in the assessment indicated that Mother is mildly retarded with an IQ of 66 and suffers from dissociative disorder, paranoid schizophrenia, and major and recurrent depression with psychosis. As a result of this assessment, Mr. Fowler arranged for Mother to begin counseling with Peggy Sandidge, a licensed professional counselor. However, Mother was not receptive to these efforts, as indicated by the following testimony of Ms. Sandidge:

> She came a few times. She had a scheduled appointment on November the 1st of 2004, didn't show up for that one. She finally made it on November the 22nd, 2004. She had an appointment on 12/08/04, kept that one. And then January the 12th of 2005 she got there at 20 minutes till 12 for an 11 o'clock appointment. I didn't really see her except to say, you know, when you're late we have to reschedule. And then on 1/13 was a no-show. And I closed the case at that time because of, you know, not showing up, not appearing to be committed.

Ms. Sandidge agreed to reopen the case and resume counseling with Mother in February of 2005, and although Mother attended some sessions thereafter, she eventually ceased attending altogether. In this regard, Ms. Sandidge testified as follows:

> And I said, Well, I really want to see her have a chance; so I reopened the case on February the 1st of 2005. Saw her again on March the 17th of 2005; April 6th , 2005; 13th of April, 2005; two appointments in June; one in August of 2005. And then she didn't keep that first one on 7/18/05 - - didn't call, didn't cancel, she just didn't show up. And then on July the 28th, she apparently came at that one; had an appointment August the 11th, failed appointment; September the 1st, 2005, failed appointment.

Ms. Sandidge testified that when Mother did attend therapy Mother did not appear committed to treatment, and that after the appointment on July 28, Mother stopped coming, and she never saw Mother again.

Finally, the record confirms substantial noncompliance with plan requirements as to Father as a result of his abuse of controlled substances. Mr. Fowler testified that after the first of the two permanency plans was approved, he received information that Father was using drugs, and as we have noted, Father tested positive for methamphetamine on December 12, 2004; January 5, 2005; and February 15, 2005. Thereafter, the permanency plan was revised to include the requirement that Father undergo an alcohol and drug ("A & D") assessment and follow any resulting recommendations. An A & D assessment of Father was conducted by Bradford Health Services, and based upon that assessment, it was recommended that Father receive intensive outpatient treatment to include group and individual therapy. Mr. Fowler testified that he was concerned about how Father would pay for this treatment; however, after consulting with Father's probation officer and Bradford Health Services, he discovered that Father could obtain all of the A & D treatment for free in return for two days of community service. However, Father did not avail himself of this opportunity and failed to participate in the treatment program. Thereafter, on April 6, 2005, Father again tested positive for methamphetamine. At trial Father admitted that he had used methamphetamine on a daily basis for at least a year until December of 2005.

In summary, we find clear and convincing evidence that both parents substantially failed to comply with the requirements set forth in the permanency plans.

B. Mental Incompetence

We also find grounds for termination of Mother's parental rights pursuant to T.C A. § 36-1-113(g)(8)(B) which provides that parental rights may be terminated upon a finding of clear and convincing evidence that:

> (i) The parent or guardian of the child is incompetent to adequately provide for the further care and supervision of the child because the parent's or guardian's mental condition is presently so impaired and so likely to remain so that it is unlikely that the parent or guardian will be able to assume or resume the care of and responsibility for the child in the near future; and
> (ii) That termination of parental or guardian rights is in the best interest of the child;

We have previously alluded to Ms. Biller's testimony regarding her diagnosis of Mother as suffering from dissociative disorder, paranoid schizophrenia, and major and recurrent depression with psychosis. Ms. Biller further testified as follows with respect to this diagnosis and its consequences:

> [S]he's only the second person that I've seen in the time that I've worked that is dissociative.... It's a very rare condition that used to be called multiple personality disorder and now is called dissociative disorder.
>
> And what happens is folks who have this diagnosis actually shift from one personality and don't realize that they have shifted into another personality, an alter personality. And that's what happens for [Mother].
>
> * * *
>
> The MMPI-II finished out with a high score on eight. Eight is schizophrenia, which shows that she's detached from reality. Six, paranoia. That is also her other high point.
>
> But generally it really suggests to us that this is a very significant but pathetic diagnosis in that there's limited treatment for folks who are MPD, who are dissociative disorder. Very, very limited. It requires a reintegration of this person overall in terms of the personalities. And the problem, when you have someone who's functioning at a 66 IQ, is their ability to then reintegrate and do the work that it takes to observe these personalities and reintegrate them. It's very difficult; and for a person at a 66, it's nigh unto impossible to accomplish.

Finally, Ms. Biller testified that Mother's mental impairment will prevent her from assuming the care and responsibility of her children in the near future:

> It is sad to say and with regret, but the chances of her being able to do this parenting is nil. It just can't - - it's not going to happen. There are too many factors, lots that's not within her control.

Subsequently, in March of 2005, Mother underwent an additional parenting assessment by clinical psychologist, Dr. Bertin Glennon. Dr. Glennon confirmed Ms. Biller's finding that Mother is mildly mentally retarded with an IQ of 66. He further concluded that Mother suffers from posttraumatic stress, depression, and mixed personality and that she dissociates. Dr. Glennon testified as follows as to Mother's ability to care for her children:

> Q. Under what conditions would [Mother] be able to effectively and safely parent her children?
>
> A. I think she would be - - well, as I said before, I think the first thing she needs is an identified, clearly available, caring support system that

she accepts. And I want to stress this: In order for a support system to be effective, she has to accept and work with it.

* * *

Q. Let's go back to her disorders. How serious are these mental health disorders?

A. Very.

Q. And without treatment and adequate - -

A. Without treatment they - - without treatment, without an adequate support system they become very, very, very much more problematic.

Q. And does at that point she become a risk to the children?

A. Very well might. ... And it is very, very likely that she would be a risk if the therapy is not provided, if she's not contributing with the therapeutic process, if she's not taking part in it. I mean, just showing up doesn't mean therapy.

Q. Right.

A. And, secondly, if there's not a support system that's on the spot caring that she contributes to and they contribute to her that is available, I would have some real serious problems saying that this is okay.

We have noted Mother's resistence to therapy, and it is further apparent from the record that she is without an immediate support system such as that envisioned by Dr. Glennon. Given the diagnoses/prognoses described in the testimony of Ms. Biller and Dr. Glennon and the circumstances presented in this case, we find clear and convincing evidence to support termination of Mother's parental rights under T.C.A. § 36-1-113(g)(8)(B).

V. Reasonable Efforts

Both parents argue that DCS failed to comply with T.C.A. §37-1-166, which provides that DCS must make "reasonable efforts" to "[m]ake it possible for the child to return home." We disagree.

In *In re Georgiana*, 205 S.W.3d 508 (Tenn. Ct. App. 2006), we recently restated the standard to which DCS is held in endeavoring to reunite the family after removal of a child from the home:

> While the Department's reunification efforts need not be "herculean," the Department must do more than simply provide the parents with a list of services and send them on their way. The Department's employees must use their superior insight and training to assist the parents in addressing and completing the tasks identified in the permanency plan.... [T]he Department's reunification efforts are "reasonable" if the Department has exercised "reasonable care and diligence ... to provide services related to meeting the needs of the child and family." Tenn. Code Ann. § 37-1-166(g)(1) (2005). The reasonableness of the Department's efforts depends upon the circumstances of the particular case. The factors that courts use to determine the reasonableness of the Department's efforts include: (1) the reasons for separating the parent from his or her children, (2) the parent's physical and mental abilities, (3) the resources available to the parent, (4) the parent's efforts to remedy the conditions that required the removal of the children, (5) the resources available to the Department, (6) the duration and extent of the parent's remedial efforts, and (7) the closeness of the fit between the conditions that led to the initial removal of the children, the requirements of the permanency plan, and the Department's efforts.
>
> The Department does not have the sole obligation to remedy the conditions that required the removal of children from their parents' custody. When reunification of the family is a goal, the parents share responsibility for addressing these conditions as well. Thus, parents desiring the return of their children must also make reasonable and appropriate efforts to rehabilitate themselves and to remedy the conditions that required the Department to remove their children from their custody.

In re Georgiana, 205 S.W.3d at 519 (case citations omitted).

Applying this standard to the instant matter and upon our careful review of the record, it is our determination that DCS made reasonable efforts to reunite these parents with their children. For example, DCS arranged for parenting assessments for both parents and a psychological assessment for Mother. DCS also arranged for Mother to receive counseling in an effort to remedy her mental problems and for Father to receive therapy for his drug addiction, and neither parent was cooperative with these efforts. In addition, DCS arranged for weekly supervised therapeutic visitation, the purpose of which was described by Mr. Fowler as follows:

> For a qualified person to observe the parenting skills, the relational dynamics between parents and children; and to talk with parents about, you know, what would not be so helpful perhaps things that

> they saw or what kind of things they're doing; encourage them where they saw areas of being successful, to coach them, teach them.

Mr. Fowler further testified that waivers were obtained by DCS so that the supervised visitation and parenting services could continue twice as long as normally available. Father's argument that DCS's efforts at reunification were not reasonable is based solely upon his assertion that DCS provided him with outpatient therapy for his drug addiction, whereas he should have been provided with inpatient therapy instead. Mother argues that had DCS offered Father appropriate treatment for his addiction and had such treatment been successful, "a support system would be in place for [Mother] to successfully cope with her psychological issues so that the [parents] could raise [their] children." We find no merit in these arguments for two reasons. First, Bradford Health Services crisis coordinator Nina Colvin testified as follows as to the selection of inpatient treatment for Father:

> Q. And I understand at the A & D assessment you-all recommended an intensive outpatient program. You did not recommend in patient treatment, right?
>
> A. Correct.
>
> Q. Would it be fair to say ... that inpatient really would not have been an option because he has no insurance and no source, no other source of income?
>
> A. No. That was not the reason why we did not recommend inpatient. The reason we didn't recommend inpatient is because he did not meet criteria for inpatient. He only met it for intensive outpatient.
>
> Q. His problem was not judged to be severe enough to be inpatient hospitalized; is that right?
>
> A. Correct.

No evidence was presented in this case that Father required any form of treatment for his addiction other than the recommended outpatient program. Further, Father testified that his addiction did not begin until after the children were removed from the home, and it is clear from the record that Father's irresponsibility and failure to support his family, including Mother, preceded his addiction. We are presented with no reason to believe that but for his addiction, Father would provide Mother with the intensive support needed to address her very serious mental handicaps.

VI. Best Interest

The parties argue that the trial court's finding that termination of parental rights was in the children's best interest was premature because DCS failed to prove statutory grounds for termination; however, that argument is pretermitted by our holdings set forth above. The parents do not otherwise contend that the trial court erred in finding by clear and convincing evidence that termination of parental rights was in the children's best interest. Our review of the record confirms that the trial court's decision in this regard is supported by clear and convincing evidence and that the children are placed in foster homes committed to long-term placement and are thriving physically, emotionally, and intellectually.

VII. Conclusion

For the reasons set forth herein, the judgment of the trial court is affirmed. Costs of appeal are assessed to the appellants, W.F. and T.F.

SHARON G. LEE, JUDGE

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